



DEPARTMENT OF LAW  
OFFICE OF THE  
**Attorney General**  
STATE CAPITOL  
Phoenix, Arizona 85007

BOB CORBIN  
~~XXXXXXXXXXXX~~  
ATTORNEY GENERAL

January 19, 1979

**LAW LIBRARY**  
**ARIZONA ATTORNEY GENERAL**

Mr. Larry Ollason  
Special Deputy County Attorney  
For School Affairs  
Pima County Attorney's Office  
182 North Court Avenue  
Tucson, Arizona 85701

Re: I79-17 (R78-97)

Dear Mr. Ollason:

We have reviewed your March 21, 1978 opinion addressed to the Director of Business Affairs at Sunnyside Unified School District No. 12, concluding that a school board cannot legally pay an employee's share of the Arizona State Retirement deduction. Based upon Op. Atty. Gen. No. 78-193 and the statutory authority cited in that opinion, we concur with your opinion.

Sincerely,

A handwritten signature in cursive script that reads "Bob Corbin".

BOB CORBIN  
Attorney General

BC:mm

OFFICE OF THE  
**Pima County Attorney**  
182 NORTH COURT AVENUE  
**Tucson, Arizona 85701**  
(602) 624-4477

STEPHEN D. NEELY  
PIMA COUNTY ATTORNEY  
LAWRENCE OLLASON  
SPECIAL DEPUTY COUNTY ATTORNEY  
FOR SCHOOL AFFAIRS

APR 1 9 44 AM '78  
ATTY. GENERAL  
PHOENIX, ARIZONA

*Pod*

*R78-97  
Concurring*

March 31, 1978

James E. Irwin  
Director of Business Affairs  
Sunnyside Unified School District No. 12  
Administrative Offices  
P. O. Box 11280  
Tucson, Arizona 85734

Dear Jim:

This is in regard to my letter dated March 21, 1978 which was in response to your letter dated February 27, 1978.

We call your attention to Section 15-122 B, as amended, requiring all school opinions to be forthwith submitted by the County Attorney to the Attorney General for concurrence or disaffirmance. We also call your attention to Section 15-43B as amended, that you are relieved from personal liability for acts done in reliance upon the written opinion of the Attorney General. If you act without waiting for the Attorney General's concurrence or disaffirmance of the opinion, and any damage results from your actions, you are liable both as a member of the Board of Trustees of Sunnyside School District #12 and personally. Bear in mind that reliance in the opinion of the Attorney General relieves you only from personal liability and not from liability as a member of the Board of Trustees.

Sincerely,

STEPHEN NEELY  
PIMA COUNTY ATTORNEY

by: Lawrence Ollason  
Special Deputy County Attorney  
for School Affairs

LO:jm  
Enc.

cc: The Attorney General  
State Capitol  
1700 W. Washington  
Phoenix, Arizona 85007

March 21, 1978

James E. Irwin  
Director of Business Affairs  
Sunnyside Unified School District No. 12  
Administrative Offices  
P. O. Box 11280  
Tucson, Arizona 85734

Dear Jim:

I am writing in response to your letter dated February 27, 1978 wherein you inquired as to whether it is legal for the Board to pay the employee's share of the Arizona State Retirement deduction as an expense rather than deducting it from the employee's pay.

According to Arizona Revised Statutes, §15-1469 A, contributions due from state employees pursuant to the state employees' retirement system "shall be deducted from wages paid such employees...and together with required wage reports shall be transmitted to the state employees' retirement system board and the employment security commission for deposit and credit in the retirement fund and contribution fund in accordance with the amount due each fund."

I was unable to find anything under Chapter 14 of the Arizona Revised Statutes referring to "Teacher's Retirement" which would grant the board the authority to alter the manner of contribution payment made to the Arizona State Retirement System. Therefore, in answer to your question, I must conclude that it is not legal for the board to make such payment in lieu of the employee.

I hope these findings are helpful to you. If you have any further questions in regard to this matter, I would be happy to give them my prompt attention.

Sincerely,

STEPHEN NEELY  
PIMA COUNTY ATTORNEY

by: Lawrence Ollason  
Special Deputy County Attorney  
for School Affairs

LO:jm

# SUNNYSIDE UNIFIED SCHOOL DISTRICT NO. 12

ADMINISTRATIVE OFFICES • 2238 EAST GINTER ROAD  
P. O. BOX 11280 • TUCSON, ARIZONA 85734  
TELEPHONE 602-294-1411

February 27, 1978

Mr. Lawrence Ollason  
Special Deputy County Attorney  
for School Affairs  
182 North Court Avenue  
Tucson, Arizona 85701

Dear Moe:

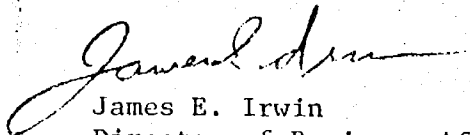
Our board met in an executive session on February 21, 1978, and requested that I seek the following legal opinion:

Is it legal for the board to pay the employee's share of the Arizona State Retirement deduction as an expense rather than deducting it from the employee's pay?

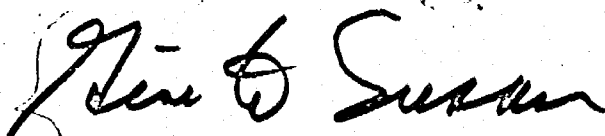
At the present time, 7 percent of the employee's pay is withheld from the wages as the employee's share of the Arizona State Retirement contribution. A matching 7 percent is paid by the district as an expense to bring the total contribution to 14 percent to the Arizona State Retirement System.

We would appreciate your prompt attention to this request.

Sincerely,

  
James E. Irwin  
Director of Business Affairs

fj

  
3-13-78